

or employee over which the officer or employee has no direct or indirect influence or control, transactions in mutual fund shares, and all transactions involving in the aggregate \$10,000 or less during the calendar quarter. For purposes of this paragraph (e)(4), the term securities does not include government securities.

(f) *Settlement of securities transactions.* All contracts for the purchase or sale of a security shall provide for completion of the transaction within the number of business days in the standard settlement cycle for the security followed by registered broker dealers in the United States unless otherwise agreed to by the parties at the time of the transaction.

(g) *Exceptions.* (1) *De minimis Transactions.* The requirements of paragraphs (b)(2)(ii) through (b)(2)(iv) and paragraphs (e)(1) through (e)(3) of this section shall not apply to banks having an average of less than 200 securities transactions per year for customers over the prior three calendar year period, exclusive of transactions in government securities;

(2) *Government Securities.* The recordkeeping requirements of paragraph (b) of this section shall not apply to banks effecting fewer than 500 government securities brokerage transactions per year; provided that this exception shall not apply to government securities transactions by a state member bank that has filed a written notice, or is required to file notice, with the Federal Reserve that it acts as a government securities broker or a government securities dealer;

(3) *Municipal Securities.* The municipal securities activities of a state member bank that are subject to regulations promulgated by the Municipal Securities Rulemaking Board shall not be subject to the requirements of this section; and

(4) *Foreign Branches.* The requirements of this section shall not apply to the activities of foreign branches of a state member bank.

(h) *Safe and sound operations.* Every State member bank qualifying for an exemption under paragraph (g) of this section that conducts securities transactions for customers shall, to ensure safe and sound operations, maintain effective systems of records and controls regarding their customer securities transactions that clearly and accurately reflect appropriate information and provide an adequate basis for an audit of the information.

By order of the Board of Governors of the Federal Reserve System, December, 19, 1995.
William W. Wiles,
Secretary of the Board.
[FR Doc. 95-31234 Filed 12-22-95; 8:45 am]
BILLING CODE 6210-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95-NM-214-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9 and DC-9-80 Series Airplanes, and Model MD-88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all McDonnell Douglas DC-9 and DC-9-80 series airplanes, and Model MD-88 airplanes. Among other things, this proposal would require repetitive leak checks of the lavatory drain system and repair, if necessary; would provide for the option of revising the FAA-approved maintenance program to include a schedule of leak checks; would require the installation of a cap on the flush/fill line; and would require replacement or modification of the vent system piping. This proposal is prompted by continuing reports of damage to engines and airframes, separation of engines from airplanes, and damage to property on the ground, caused by "blue ice" that forms from leaking lavatory drain systems on transport category airplanes and subsequently dislodges from the airplane fuselage. The actions specified by this proposed AD are intended to prevent such damage associated with the problems of "blue ice."

DATES: Comments must be received by March 28, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-214-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855

Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1-L51 (2-60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627-5336; fax (310) 627-5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95-NM-214-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-214-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

Over the past ten years, the FAA has received numerous reports of leakage of waste fluid from the lavatory service systems on in-service transport category airplanes. This leakage has resulted in the formation of "blue ice" on the fuselage. In some instances, the "blue ice" has subsequently dislodged from the fuselage and has been ingested into an engine. In several of these incidents, the ingestion of "blue ice" into an engine resulted in the loss of an engine fan blade, severe engine damage, and the in-flight shutdown of the engine. In two cases, the loads created by the "blue ice" being ingested into the engine resulted in the engine being physically torn from the airplane. Damage to an engine, or the separation of an engine from the airplane, could result in reduced controllability of the airplane.

The FAA also has received reports of at least three incidents of damage to the airframe of transport category airplanes caused by foreign objects and "blue ice," resulting from leakage of the forward toilet drain valve and flush/fill line, striking the airframe. One report was of a dent on the leading edge of the right horizontal stabilizer on a Boeing Model 737 series airplane that was caused by "blue ice" that had formed from leakage through a flush/fill line; in this case, the flush/fill cap was missing from the line at the forward service panel. Numerous operators have stated that leakage from the flush/fill line is a significant source of problems associated with "blue ice." Such damage caused by "blue ice" could adversely affect the integrity of the fuselage skin or surface structures.

Additionally, there have been numerous reports of "blue ice" dislodging from airplanes and striking houses, cars, buildings, and other occupied areas on the ground. Although there have been no reports of any person being struck by "blue ice," the FAA considers that the large number of reported cases of "blue ice" falling from the lavatory drain system is sufficient to support the conclusion that "blue ice" presents an unsafe condition to people on the ground. Demographic studies have shown that population density has increased around airports, and probably will continue to increase. These are populations that are at greatest risk of injury and damage due to "blue ice" dislodging from an airplane during the airplane's descent into the airport. Without actions to ensure that leaks from the lavatory drain systems are detected and corrected in a timely manner, "blue ice" incidents could go unchecked and eventually someone may

be struck, perhaps fatally, by falling "blue ice."

Current Rules

In response to these incidents, the FAA has issued several AD's applicable to various transport category airplanes:

1. *AD 86-05-07, Amendment 39-5250 (51 FR 7767, March 6, 1986)*: Issued on February 26, 1986, this AD required periodic leak checks of all Boeing Model 727 aircraft forward lavatory drain systems (both dump valve and drain valve) at intervals not to exceed 15 months, and corrective action, if necessary.

2. *AD 94-23-10, amendment 39-9073 (59 FR 59124, November 16, 1994)*: Issued on November 9, 1994, this AD supersedes AD 86-05-07. It continues to require various leak checks of Boeing Model 727 series airplanes, but adds requirements for leak checks of other lavatory drain systems; provides for the option of revising the FAA-approved maintenance program to include a schedule of leak checks; requires the installation of a cap on the flush/fill line; and requires either a periodic leak check of the flush/fill line cap or replacement of the seals on both that cap and the toilet tank anti-siphon (check) valve.

3. *AD 89-11-03, amendment 39-6223 (54 FR 21933, May 22, 1989)*: Issued on May 9, 1989, this AD is applicable to certain Boeing Model 737-300 and -400 airplanes. It requires repetitive leak checks of the forward lavatory service system at intervals of 200 hours time-in-service, and repair, if necessary. That AD also provided operators with an optional action in lieu of performing these periodic checks, which entails draining the system, locking the lavatory, and placarding the lavatory inoperative.

4. The FAA is planning to amend AD 89-11-03 to make it applicable to all Boeing Model 737 series airplanes, and to require additional inspections and other actions similar to those of AD 94-23-10.

5. The FAA is currently considering additional rulemaking to address the problems associated with "blue ice" on various other transport category airplanes, including those manufactured by Airbus, British Aerospace, Fokker, and Lockheed, as well as other models manufactured by McDonnell Douglas.

Description of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas DC-9 Service Bulletin 38-47, dated April 17, 1992, which describes procedures for installing a lever lock rinse cap on

lavatory service panels. The development of this installation was in response to reports that the quarter-turn caps, which are normally installed on the fill/rinse line at the lavatory service panel, are often removed by ground service personnel or are not properly re-installed and reseated after servicing. Installation of lever lock rinse caps in place of quarter-turn caps will inhibit the closing of the service panel doors when the cap is not properly closed; this will enable service personnel to recognize situations when the cap needs to be closed correctly. This, in turn, will minimize the possibility of leakage of lavatory waste liquids from the cap and the subsequent formation of "blue ice."

The FAA also has reviewed and approved McDonnell Douglas DC-9 Service Bulletin 38-41, Revision 3, dated July 5, 1994, which describes procedures for modifying and replacing the lavatory vent system piping. The development of this modification was in response to reports of "blue ice" build-up at the lavatory overboard vent on four Model DC-9 series airplanes. The ice build-up was attributed to lavatory waste tanks exceeding their capacity and overflowing through the overboard vent piping. This build-up of "blue ice" can break loose and damage either the nose cowl of engine No. 1 or the engine itself. The modified vent system piping minimizes the possibility of waste water siphoning overboard.

Description of the Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the FAA is proposing an AD that would require the following actions:

Paragraph (a) of the proposed AD would require repetitive leak checks of the lavatory dump valve, drain valve (either service panel or in-line drain valve), and lavatory vent system. The intervals for performing these leak checks would vary from 200 flight hours to 1,500 flight hours, depending upon what type of valve is installed at each location. The leak check of panel valves would be required to be performed with a minimum of 3 pounds per square inch differential pressure (PSID) applied across the valve. If any leak is discovered during the leak checks, operators would be required either to repair the leak and retest it, or drain the lavatory system and placard it inoperative until repairs can be made.

In cases where the panel valve has an inner seal, in lieu of pressure testing, operators are provided with the option of performing a visual inspection for damage or wear of the outer cap seal

and seal surface. Any damaged parts detected would be required to be repaired or replaced prior to further flight, or the lavatory drained and placarded inoperative until repairs can be made.

Additionally, the flush/fill line cap would be required to be leak checked. In lieu of this particular check, operators may elect to replace the seals on the toilet tank anti-siphon (check) valve and flush/fill line cap.

Paragraph (b) of this proposed AD would provide an optional procedure for complying with the rule, which would entail revising the FAA-approved maintenance program to incorporate a schedule to conduct leak checks of the lavatory drain systems. The maintenance program change would also require that procedures be provided for accomplishing the visual inspections to detect leakage, and for reporting leakage. Additionally, a training program must be provided to maintenance and servicing personnel, which would include information on "blue ice" awareness and the hazards of "blue ice."

Operators electing to comply with this option would be required to obtain approval from the Manager of the FAA's Los Angeles Aircraft Certification Office (ACO) for any revision to the leak check intervals. Requests for such revisions would be required to be accompanied by certain data when submitted to the ACO [through the appropriate FAA Principal Maintenance Inspector (PMI)] for approval. In paragraph (c) of the proposed rule, the FAA proposes a "data collection format" for these requests. Data submitted in accordance with the proposed format, if favorable to an increase in the leak check interval, will allow the FAA to justify increasing the leak check interval with assurance that the valves involved have the required reliability. The data provided also will be important in assisting the FAA in making future determinations of appropriate leak check intervals for new valves that have shown promising, but not conclusive, service data. For example, the FAA has previously approved extension of the leak check interval to 2,000 hours for one operator using PneuDrualics part number series 9527 valves on Boeing Model 737 series airplanes. Assuming that this operator successfully completes two cycles of 2,000-hour leak checks without finding leakage, the FAA may consider approving the extension of the 2,000-hour leak check interval to a 4,000-hour interval for this operator.

Paragraph (d) of the proposed AD also would require that all operators install a lever/lock cap on the flush/fill lines

for all service panels. The cap must be either an FAA-approved cap or one installed in accordance with McDonnell Douglas Service Bulletin 38-47.

Paragraph (e) of the AD would require that leak checks of the lavatory vent system be conducted on certain airplanes at the same time as the leak checks of the dump valve and flush/fill line are conducted. If a leak is detected, the proposed rule would provide for several optional corrective actions that operators could accomplish.

Paragraph (e) would also require that, within 3 years, operators of certain airplanes either replace/modify the lavatory vent system piping in accordance with McDonnell Douglas DC-9 Service Bulletin 38-41, Revision 3; or install an FAA-approved modification that deactivates the vent system. Once either of these actions is accomplished, the periodic leak checks of the lavatory vent system may be discontinued.

Paragraph (f) of the proposed AD would require that, before an operator places an airplane subject to the AD into service, the operator must establish a schedule for accomplishment of the subject leak checks. This provision is intended to ensure that transferred airplanes are inspected in accordance with the AD on the same basis as if there were continuity in ownership, and that scheduling of the leak checks for each airplane is not delayed or postponed due to a transfer of ownership. Airplanes that have previously been subject to the AD would have to be checked in accordance with either the previous operator's or the new operator's schedule, whichever would result in the earlier accomplishment date for that leak check. Other airplanes would have to be inspected before an operator could begin operating them or in accordance with a schedule approved by the FAA PMI, but within a period not exceeding 200 flight hours.

Economic Impact

There are approximately 2,097 Model DC-9 and DC-9-80 series airplanes and Model MD-88 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,191 airplanes of U.S. registry, and 47 U.S. operators, would be affected by this proposed AD.

1. *Leak checks.* It would take approximately 4 work hours per airplane lavatory drain to accomplish each leak check, at an average labor cost of \$60 per work hour. There normally are 2 drains per airplane. Depending upon the type of valves installed and the flight utilization rate of the airplane, an airplane subject to this AD could be required to be inspected as few as 2

times per year or as many as 15 times per year. Based on these figures, the cost impact of the proposed leak check requirement on U.S. operators would be between \$960 and \$7,200 per airplane per year.

2. *Inspections.* Should an operator elect to perform the inspection of the service panel drain valve cap/door seal and seal mating surface, the inspection would take approximately 1 work hour to accomplish, at an average labor cost of \$60 per work hour. Depending upon the type of valves installed and the flight utilization rate of the airplane, an airplane subject to this AD could be required to be inspected as few as 2 times per year or as many as 15 times per year. Based on these figures, the cost impact of the proposed inspection requirement on U.S. operators would be between \$120 and \$1,800 per airplane per year.

3. *Installation of cap on flush/fill line.* The proposed installation would take approximately 2 work hours to accomplish, at an average labor cost of \$60 per work hour. The cost of required parts is estimated to be \$275 per flush/fill line. There are normally 3 flush/fill lines per airplane. Based on these figures, the cost impact of the proposed installation requirement on U.S. operators would be \$1,411,335, or \$1,185 per airplane.

4. *Installation of lavatory vent system replacement/modification.* The portion of this installation that entails modification of the toilet assembly would require between 2 and 4 work hours per airplane to accomplish, depending on the brand of toilet involved. The average labor cost is estimated to be \$60 per work hour. The cost of required parts is estimated to be between \$83 and \$2,121 per airplane. Based on these figures, the cost impact of this portion of the proposed installation on U.S. operators would be between \$203 and \$2,361 per airplane.

The portion of this installation that entails modification of lavatory vent lines would require between 15 and 52 work hours per airplane to accomplish, depending upon the configuration of the airplane, if certain other modifications have already been accomplished, and the modification option selected. The average labor cost is estimated to be \$60 per work hour. The cost of required parts is estimated to be between \$600 and \$13,000 per airplane. Based on these figures, the cost impact of this portion of the proposed installation on U.S. operators would be between \$1,500 and \$16,120 per airplane.

The number of required work hours, as indicated above, is presented in this discussion as if the actions proposed in

this AD were to be conducted as "stand alone" actions. However, in actual practice, these actions could be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary "additional" work hours would be minimal in many instances.

Additionally, any costs associated with special airplane scheduling should be minimal.

In addition to the costs discussed above, for those operators who elect to comply with proposed paragraph (b) of this AD action, the FAA estimates that it would take approximately 40 work hours per operator to incorporate the lavatory drain system leak check procedures into the maintenance programs, at an average labor cost of \$60 per work hour. Based on these figures, the cost impact of the proposed maintenance revision requirement of this AD on U.S. operators is estimated to be \$2,400 per operator.

The "cost impact" figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this proposed AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no

longer being achieved and that the required actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this AD would be redundant and unnecessary.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40101, 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 95-NM-214-AD.

Applicability: All Model DC-9-10, -20, -30, -40, and -50 series airplanes; Model DC-9-81 (MD-81), DC-9-82 (MD-82), DC-9-83 (MD-83), and DC-9-87 (MD-87) series

airplanes; and Model MD-88 airplanes; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (g) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent engine damage, airframe damage, and/or hazard to persons or property on the ground as a result of "blue ice" that has formed from leakage of the lavatory drain system and dislodged from the airplane, accomplish the following:

Note 2: The leak checks of the toilet dump valve and flush/fill line that are required by this AD may be performed by filling the toilet tank with water/rinsing fluid to a level at least 4 inches above the flapper in the bowl, and checking for leakage after a period of 5 minutes.

(a) Except as provided in paragraph (b) of this AD, accomplish the applicable procedures specified in paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6) of this AD. If the individual waste drain system panel incorporates more than one type of valve, the inspection interval that applies to that panel is determined by the component with the longest inspection interval allowed. Each of the components must be inspected or tested at that time at each service panel location.

(1) For each lavatory drain system that has an in-line drain valve installed, Kaiser Electroprecision part number series 2651-329: Within 1,500 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 1,500 flight hours, accomplish the procedures specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD:

(i) Conduct a leak check of the dump valve (in-tank valve that is spring loaded closed and operable by a T-handle at the service panel), and the in-line drain valve. The in-line drain valve leak check must be performed with a minimum of 3 pounds per square inch differential pressure (PSID) applied across the valve.

(ii) Visually inspect the service panel drain valve outer cap seal and the inner seal (if the valve has an inner door/closure device with a second positive seal), and the seal mating surfaces, for wear or damage that may allow leakage.

(2) For each lavatory drain system that has a service panel drain valve installed, Shaw Aero Devices part number 10101000C-A (or

higher dash number); or Shaw Aero Devices part number 10101000B-A (or higher dash number); or Shaw Aero Devices part number 10101B-577-1 or 10101B-577-2; or Pneudraulics part number series 9527: Within 1,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 1,000 flight hours, accomplish the procedures specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD:

(i) Conduct a leak check of the dump valve and the service panel drain valve. The service panel drain valve leak check must be performed with a minimum of 3 PSID applied across the valve. Both the inner door/closure device and the outer cap/door must be leak checked.

(ii) For service panel valves that have an inner seal: In lieu of pressure testing, the outer cap seal and seal surface may be visually inspected for damage or wear.

(3) For each lavatory drain system that has a service panel drain valve installed, Shaw Aero Devices part number series 10101000C [except as specified in paragraph (a)(2) of this AD], or Shaw Aero Devices part number 10101000B [except as specified in paragraph (a)(2) of this AD]: Within 600 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 600 flight hours, accomplish the procedures specified in paragraphs (a)(3)(i) and (a)(3)(ii) of this AD:

(i) Conduct a leak check of the dump valve and the service panel drain valve. The service panel drain valve leak check must be performed with a minimum of 3 PSID applied across the valve. Both the inner door/closure device and the outer cap/door must be leak checked.

(ii) For service panel valves that have an inner seal: In lieu of pressure testing, the outer cap seal and seal surface may be visually inspected for damage or wear.

(4) For other lavatory drain systems not addressed in paragraph (a)(1), (a)(2), or (a)(3) of this AD: Within 200 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 200 flight hours, accomplish the procedures specified in paragraphs (a)(4)(i) and (a)(4)(ii) of this AD:

(i) Conduct a leak check of the dump valve and the service panel drain valve. The service panel drain valve leak check must be performed with a minimum of 3 PSID applied across the valve. Both the inner door/closure device and the outer cap/door must be leak checked.

(ii) For service panel valves that have an inner seal: In lieu of pressure testing, the outer cap seal and seal surface may be visually inspected for damage or wear.

(5) For flush/fill lines: Within 5,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 5,000 flight hours, accomplish the procedures specified in either paragraph (a)(5)(i) or (a)(5)(ii) of this AD:

(i) Conduct a leak check of the flush/fill line cap. This leak check must be made with a minimum of 3 PSID applied across the cap. Or

(ii) Replace the seals on the toilet tank anti-siphon (check) valve and in the flush/fill line cap. Additionally, perform a leak check of the toilet tank anti-siphon (check) valve with

a minimum of 3 PSID across the valve after changing the seals.

(6) As a result of the leak checks and inspections required by this paragraph, or if evidence of leakage is found at any other time, accomplish the requirements of either paragraph (a)(6)(i), (a)(6)(ii) or (a)(6)(iii) as applicable:

(i) If a leak is discovered, prior to further flight, repair the leak. Prior to further flight after repair, perform the leak test. Additionally, prior to returning the airplane to service, clean the surfaces adjacent to where the leakage occurred to clear them of any horizontal fluid residue streaks; such cleaning must be to the extent that any future appearance of a horizontal fluid residue streak will be taken to mean that the system is leaking again.

Note 3: For purposes of this AD, "leakage" is defined as any visible leakage observed during a leak test; the presence of ice in the service panel; or horizontal fluid residue streaks or ice trails originating at the service panel. The fluid residue is usually, but not necessarily, blue in color.

(ii) If any worn or damaged seal is found, or if any damaged seal mating surface is found, prior to further flight, repair or replace it in accordance with the valve manufacturer's maintenance manual.

(iii) In lieu of performing the requirements of paragraph (a)(6)(i) or (a)(6)(ii): Prior to further flight, drain the affected lavatory system and placard the lavatory inoperative until repairs can be accomplished.

(b) As an alternative to the requirements of paragraph (a) of this AD: Within 180 days after the effective date of this AD, revise the FAA-approved maintenance program to include the requirements specified in paragraphs (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), and (b)(7) of this AD:

(1) Replace the valve seals in accordance with the applicable schedule specified in paragraphs (b)(1)(i) and (b)(1)(ii) of this AD. Any revision to this replacement schedule must be approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(i) For each lavatory drain system that has an in-line drain valve installed, Kaiser Electroprecision part number series 2651-329: Replace the seals within 5,000 flight hours after revision of the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 52 months.

(ii) For each lavatory drain system that has any other type of drain valve: Replace the seals within 5,000 flight hours after revision of the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 18 months.

(2) Conduct periodic leak checks of the lavatory drain systems in accordance with the applicable schedule specified in paragraphs (b)(2)(i), (b)(2)(ii), (b)(2)(iii), and (b)(2)(iv) of this AD. If the individual waste drain system incorporates more than one type of valve, the interval that applies to that system is determined by the component with the longest inspection interval allowed. Each of the components in that system must be inspected/tested at that time. Any revision to this leak check schedule must be approved

by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate.

(i) For each lavatory drain system that has an in-line drain valve, Kaiser Electroprecision part number series 2651-329: Within 5,000 flight hours after revision of the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 24 months or 5,000 flight hours, whichever occurs later, accomplish the procedures specified in paragraphs (b)(2)(i)(A) and (b)(2)(i)(B) of this AD:

(A) Conduct a leak check of the dump valve (in-tank valve that is spring loaded closed and operable by a T-handle at the service panel) and the in-line drain valve. The in-line drain valve leak check must be performed with a minimum of 3 PSID applied across the valve.

(B) Visually inspect the service panel drain valve outer cap/door seal and the inner seal (if the valve has an inner door/closure device with a second positive seal) and seal mating surface for wear or damage that may cause leakage. Any worn or damaged seal must be replaced and any damaged seal mating surface must be repaired or replaced, prior to further flight, in accordance with the valve manufacturer's maintenance manual.

(ii) For each lavatory drain system that has a service panel drain valve installed, Shaw Aero Devices part number series 10101000C; or Shaw Aero Devices part number series 10101000B; or Pneudraulics part number series 9527: Within 1,000 flight hours after revising the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 1,000 flight hours, accomplish the procedures specified in paragraphs (b)(2)(ii)(A) and (b)(2)(ii)(B) of this AD:

(A) Conduct leak checks of the dump valve and the service panel drain valve. The service panel drain valve leak check must be performed with a minimum of 3 PSID applied across the valve. Only the inner door/closure device of the service panel drain valve must be leak checked.

(B) Visually inspect the service panel drain valve outer cap/door seal and seal mating surface for wear or damage that may cause leakage.

(iii) For each lavatory drain system that has a lavatory drain system valve that incorporates only an outer cap seal (i.e., uses no inner flapper), or that incorporates an inner seal that is not an attached part of the valve (i.e., a "donut"): Within 200 flight hours after revising the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 200 flight hours, conduct leak checks of the dump valve and the service panel drain valve. The service panel drain valve leak check must be performed with a minimum 3 PSID applied across the valve. Both the donut and the outer cap/door must be leak checked.

(iv) For each lavatory drain system that incorporates any other type of approved valve(s): Within 400 flight hours after revising the maintenance program in accordance with paragraph (b) of this AD, and thereafter at intervals not to exceed 400 flight hours, accomplish the procedures

specified in paragraphs (b)(2)(iv)(A) and (b)(2)(iv)(B) of this AD:

(A) Conduct leak checks of the dump valve and the service panel drain valve. The service panel drain valve leak check must be performed with a minimum 3 PSID applied across the valve. If the service panel drain valve has an inner door/closure device with a second positive seal, only the inner door must be leak checked.

(B) If the valve has an inner door/closure device with a second positive seal: Visually inspect the service panel drain valve outer door/cap seal and seal mating surface for wear or damage that may cause leakage.

(3) For flush/fill lines: Within 5,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 5,000 flight hours, accomplish the procedures specified in either paragraph (b)(3)(i) or (b)(3)(ii) of this AD:

(i) Conduct a leak check of the flush/fill line cap. This leak check must be made with a minimum of 3 PSID applied across the cap. Or

(ii) Replace the seals on the toilet tank anti-siphon (check) valve and the flush/fill line cap. Additionally, perform a leak check of the toilet tank anti-siphon (check) valve with a minimum of 3 PSID across the valve.

(4) Provide procedures for accomplishing visual inspections to detect leakage of the lavatory waste drain line and lavatory flush/fill line, at each waste service panel, to be conducted by maintenance personnel at intervals not to exceed 4 calendar days or 45 flight hours, whichever occurs later.

(5) Provide procedures for reporting leakage. These procedures shall provide that any "horizontal blue streak" findings must be reported to maintenance and that, prior to further flight, the leaking system shall either be repaired, or be drained and placarded inoperative.

(i) For systems incorporating an in-line drain valve, Kaiser Electroprecision part number series 2651-329: The reporting procedures must include provisions for reporting to maintenance any instances of abnormal operation of the valve handle for the in-line drain valve, as observed by service personnel during normal servicing.

(A) Additionally, for these systems, these provisions must include procedures for either: Prior to further flight, following the in-line drain valve manufacturer's recommended troubleshooting procedures and correction of the discrepancy; or prior to further flight, draining the lavatory system and placarding it inoperative until the correction of the discrepancy can be accomplished.

(B) If the drain system also includes an additional service panel drain valve, Shaw Aero Devices part number 10101000C-A (or higher dash number); or Shaw Aero Devices part number 10101000B-A (or higher dash number); or Shaw Aero Devices part number 10101B-577-1 or 10101B-577-2; or Pneudraulics part number series 9527:

Indications of abnormal operation of the valve handle for the in-line drain valve need not be addressed immediately if a leak check of the service panel drain valve indicates no leakage or other discrepancy. In these cases, repair of the in-line drain valve must be

accomplished within 1,000 flight hours after the leak check of the additional service panel drain valve.

(6) Provide training programs for maintenance and servicing personnel that include information on "Blue Ice Awareness" and the hazards of "blue ice."

(7) As a result of the leak checks and inspections required by this paragraph, or if evidence of leakage is found at any other time, accomplish the requirements of either paragraph (b)(7)(i), (b)(7)(ii) or (b)(7)(iii), as applicable:

(i) If a leak is discovered, prior to further flight, repair the leak. Prior to further flight after repair, perform the leak test. Additionally, prior to returning the airplane to service, clean the surfaces adjacent to where the leakage occurred to clear them or any horizontal fluid residue streaks; such cleaning must be to the extent that any future appearance of a horizontal fluid residue streak will be taken to mean that the system is leaking again.

Note 4: For purposes of this AD, "leakage" is defined as any visible leakage observed during a leak test; the presence of ice in the service panel; or horizontal fluid residue streaks/ice trails originating at the service panel. The fluid residue is usually, but not necessarily, blue in color.

(ii) If any worn or damaged seal is found, or if any damaged seal mating surface is found, prior to further flight, repair or replace it in accordance with the valve manufacturer's maintenance manual.

(iii) In lieu of performing the requirements of paragraph (b)(7)(i) or (b)(7)(ii): Prior to further flight, drain the affected lavatory system and placard the lavatory inoperative until repairs can be accomplished.

(c) For operators who elect to comply with paragraph (b) of this AD: Any revision to (i.e., extension of) the leak check intervals required by paragraph (b) of this AD must be approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. Requests for such revisions must be submitted to the Manager of the Los Angeles ACO through the FAA Principal Maintenance Inspector (PMI), and must include the following information:

(1) The operator's name;

(2) A statement verifying that all known cases/indications of leakage or failed leak tests are included in the submitted material;

(3) The type of valve (make, model, manufacturer, vendor part number, and serial number);

(4) The period of time covered by the data;

(5) The current FAA leak check interval;

(6) Whether or not seals have been replaced between the seal replacement intervals required by this AD;

(7) Whether or not leakage has been detected between leak check intervals required by this AD, and the reason for leakage (i.e., worn seals, foreign materials on sealing surface, scratched or damaged sealing surface or valve, etc.); and

(8) Whether or not any leak check was conducted without first inspecting or cleaning the sealing surfaces, changing the seals, or repairing the valve. [If such activities have been accomplished prior to conducting the periodic leak check, that leak

check shall be recorded as a "failure" for purposes of the data required for this request submission. The exception to this is the normally scheduled seal change in accordance with paragraph (b)(1) of this AD. Performing this scheduled seal change immediately prior to a leak check will not cause that leak check to be recorded as a failure.]

Note 5: Requests for approval of revised leak check intervals may be submitted in any format, provided that the data give the same level of detail specified in paragraph (c) of this AD.

Note 6: For the purposes of expediting resolution of requests for revisions to the leak check intervals, the FAA suggests that the requester summarize the raw data; group the data gathered from different airplanes (of the same model) and drain systems with the same kind of valve; and provide a recommendation from pertinent industry group(s) and/or the manufacturer specifying an appropriate revised leak check interval.

(d) For all airplanes: Within 5,000 flight hours after the effective date of this AD, install a lever/lock cap on the flush/fill lines at each lavatory service panel. The cap must be either an FAA-approved lever/lock cap, or a cap installed in accordance with McDonnell Douglas DC-9 Service Bulletin 38-47, dated April 17, 1992.

(e) For only those airplanes listed in McDonnell Douglas DC-9 Service Bulletin 38-41, Revision 3, dated July 5, 1994: Accomplish the procedures specified in paragraphs (e)(1) and (e)(2) of this AD:

(1) Conduct leak checks of the lavatory vent system at the same time as conducting the leak checks of the dump valve and flush/fill line required by this AD. If a leak is discovered, prior to further flight, accomplish the procedures specified in either paragraph (e)(1)(i), (e)(1)(ii), (e)(1)(iii), or (e)(1)(iv) of this AD:

(i) Repair the leak and retest. Or

(ii) Drain the affected lavatory system and placard the lavatory inoperative until repairs can be accomplished. Or

(iii) Install an FAA-approved modification that deactivates the vent system. After accomplishment of this deactivation, the leak checks of the lavatory vent system may be discontinued. Or

(iv) Replace/modify the vent system in accordance with McDonnell Douglas DC-9 Service Bulletin 38-41, Revision 3, dated July 5, 1994. After accomplishment of this replacement/modification, the leak checks of the lavatory vent system may be discontinued.

(2) Within 3 years after the effective date of this AD: Either replace/modify the vent system in accordance with McDonnell Douglas DC-9 Service Bulletin 38-41, Revision 3, dated July 5, 1994; or install an FAA-approved modification that deactivates the vent system. Accomplishment of either of these actions constitutes terminating action for the leak checks of the lavatory vent system that are required by this AD.

(f) For any affected airplane acquired after the effective date of this AD: Before any operator places into service any airplane subject to the requirements of this AD, a schedule for the accomplishment of the leak

checks required by this AD shall be established in accordance with either paragraph (f)(1) or (f)(2) of this AD, as applicable. After each leak check has been performed once, each subsequent leak check must be performed in accordance with the new operator's schedule, in accordance with either paragraph (a) or (b) of this AD, as applicable.

(1) For airplanes previously maintained in accordance with this AD: The first leak check to be performed by the new operator must be accomplished in accordance with either the previous operator's schedule or the new operator's schedule, whichever would result in the earlier accomplishment date for that leak check.

(2) For airplanes that have not been previously maintained in accordance with this AD: The first leak check to be performed by the new operator must be accomplished prior to further flight; or in accordance with a schedule approved by the FAA PMI, but within a period not to exceed 200 flight hours.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA PMI, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 7: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Note 8: For any valve that is not eligible for the extended leak check intervals of this AD: To be eligible for the leak check interval specified in paragraph (a)(1), (a)(2), (b)(2)(i), or (b)(2)(ii), the service history data of the valve must be submitted to the Manager, Los Angeles ACO, FAA, Transport Airplane Directorate, with a request for approval of an alternative method of compliance with this AD. The request should include an analysis of known failure modes for the valve, if it is an existing design, and known failure modes of similar valves. Additionally, the request should include an explanation of how design features will preclude these failure modes, results of qualification tests, and approximately 25,000 flight hours or 25,000 flight cycles of service history data, including a winter season, collected in accordance with the requirements of paragraph (c) of this AD or a similar program.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on December 19, 1995.

Darrell M. Pederson,
*Acting Manager, Transport Airplane
Directorate, Aircraft Certification Service.*

[FR Doc. 95-31245 Filed 12-22-95; 8:45 am]

BILLING CODE 4910-13-U

RAILROAD RETIREMENT BOARD

20 CFR Part 211

RIN 3220-AB10

Finality of Records of Compensation

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) hereby proposes to adopt regulations pertaining to the finality of reports of compensation. The proposed regulations relate to corrections to records of compensation more than four years after the date on which the compensation was required to be reported to the Board.

DATES: Comments must be received on or before February 26, 1996.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Michael C. Litt, General Attorney, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611, telephone (312) 751-4929, TTD (312) 751-4701.

SUPPLEMENTARY INFORMATION: The Board's rules and procedures regarding the finality and reports of compensation are presently contained in Board Orders, which are not readily available to the public.

The proposed rule would amend part 211 of the Board's regulations (Creditable Railroad Compensation) by adding a new § 211.16 to this part. Under section 9 of the Railroad Retirement Act, the Board will not change an employee's record of reported compensation if the change is requested more than four years after the report of compensation is required to be filed under § 209.6 of the Board's regulations. Proposed § 211.16 explains when the Board will change a record of compensation beyond the four year period; for example, where the record is incorrect because of clerical error or fraud, where the compensation was posted to the wrong period or person, or where the compensation was originally reported to the Social Security Administration but the Board or a court has determined that it should have been reported to the Board. Changes to credit compensation and service after the four year period could be made only where taxes due under the Railroad Retirement Tax Act have been paid.

The Labor Member of the Board dissented from the action of the majority of the Board approving the proposed rule. The Labor Member's reasons for dissenting from this action are set out below.

Views of the Labor Member of the Board

The Labor Member feels that this proposed revision to part 211 presents a major change in the crediting of compensation and service, in that if the four year time limit for corrections to records of compensation has passed, no employee may be credited with service months or compensation unless the employee establishes that all employment taxes have been paid with respect to this service. The Labor Member acknowledges that in the current environment where the Internal Revenue Service has responsibility for assessing and collecting taxes under the Railroad Retirement Tax Act and the Board has the responsibility for crediting compensation and service, a lack of coordination is inevitable. He contends that this should in no way compel the Board to limit the granting of legitimate railroad retirement credits, but that the change proposed by the majority of the Board would do this.

The Labor Member feels that this change could also put an employee in a "catch 22" situation since there could be questions as to the employee's status under the Social Security Act for the period where the employer is found to be covered under the Railroad Retirement Act, but because no railroad retirement taxes had been paid, the employee would receive no railroad retirement credit. Conceivably, the employee would receive no credit under either Act. The Labor Member points out that currently there are many situations where the Board may correct a compensation record retroactively. There are cases where earnings were erroneously reported to the Social Security Administration by the employer and, subsequently, the Board rules that the employer is covered under the Railroad Retirement Act. The Board may correct a record of compensation where such correction is determined or approved by a court having jurisdiction to make such a decision, or as a result of a settlement entered into by the employer and the Internal Revenue Service.

The Labor Member does not endorse the change recommended by the majority of the Board. Instead, he feels that the Board should make a concerted effort to identify when an employer or employee is, in fact, covered under the Railroad Retirement Act and attempt to mitigate the consequences of decisions that retroact over several years. He submits that we are, in fact, doing this now with the assistance of our agency's Audit and Compliance Division which